(6) (5)

No. 01-10873, 02-5034

Supreme Court U.S.
FILED
JAN 3 2003
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

KHANH PHUONG NGUYEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

TUYET MAI THI PHAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED MAY 29, 2002 (01-10873)
PETITION FOR CERTIORARI FILED JUNE 18, 2002 (02-5034)
CERTIORARI GRANTED NOVEMBER 4, 2002

14pp

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NOTICE

The following document has been omitted in the printing of this Joint Appendix. It may be found in the Petitioner's Appendix to the 01-10873 Petition For A Writ Of Certiorari.

Nguyen v. *United States*, 284 F.3d 1086 (9th Cir. 2002)

DISTRICT COURT OF GUAM

CR-99-00158

UNITED STATES OF AMERICA,
Plaintiff,

v.

TUYET MAI THI PHAN, *et al.*,
Defendant.

RELEVANT DOCKET ENTRIES

DATE	NR.	PROCEEDINGS
1999		
12/22	1-1	INDICTMENT—Sumns issd. Hrg set for 12/22/99—4:00 p.m.;
		Applies to: DFT Sealed, DFT Sealed [MBA EOD 12/16/1999]
		* * * *
3/29	56-1	VERDICT—Cnt I—Guilty; Cnt II—Guilty; Cnt III—Guilty;
		Applies to: DFT Phan, Tuyet Mai Thi [RMM EOD 03/30/2000]
	57-1	VERDICT—Cnt I—Guilty; Cnt II—Guilty; Cnt III—Guilty;
		Applies to: DFT Nguyen, Khanh Phuong [RMM EOD 03/30/2000]

DATE	NR.	PROCEEDINGS
	58-1	MINUTE ENTRY—Jury Trial, Day FIVE—Closing arguments made. Jury deliberates and returns verdicts. Dfts found Guilty on all counts. Jury polled. Sent set for 07/11/00 at 1:30 p.m. PSR due 06/07/00. Dfts rem to t/cust of t/USMS; Applies to: DFT Phan, Tuyet Mai Thi, DFT Nguyen, Khanh Phuong [RMM EOD 03/30/2000]
		* * * *
7/11	64-1	MINUTE ENTRY—Sentencing—DFT sent to 212 mos. for Ct 1; 212 mos. for Ct 2 & 212 mos. for Ct 3 (to run concurrently); 60 mos. suprvd rel for Cts 1, 2 & 3; 200 hrs. community svcs; $300 special assessment fee; fine waived. DFT remanded to custody of U.S. Marshals; Applies to: DFT Nguyen, Khanh Phuong [MBA EOD 07/13/2000]
	65-1	MINUTE ENTRY—Sentencing—DFT sent to 212 mos. for Ct 1; 212 mos. for Ct 2 & 212 mos. for Ct 3 (to run concurrently); 60 mos. suprvd rel for Cts 1, 2 & 3; 200 hrs. community svcs; $300 special assessment fee; fine waived. DFT ord remanded to custody of U.S. Marshals; Applies to: DFT Phan, Tuyet Mai Thi (MBA EOD 07/13/2000]
7/24	66-1	NOTICE of Appeal; Applies to: DFT Nguyen, Khanh Phuong [MBA EOD 07/24/2000]

DATE	NR.	PROCEEDINGS
7/26	67-1	JUDGMENT in a Cr Cs; Applies to: DFT Phan, Tuyet Mai Thi [MBA EOD 07/26/2000]
	68-1	JUDGMENT in a Cr Cs; Applies to: DFT Nguyen, Khanh Phuong [MBA EOD 07/26/2000]

US COURT OF APPEALS FOR THE NINTH CIRCUIT

Court of Appeals Docket #: 00-10353

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

KHANH PHUONG NGUYEN,
Defendant-Appellant.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
8/8/00	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. Filed in D.C. on 7/26/00; setting schedule as follows: transcript shall be ordered by 8/16/00 for Khanh Phuong Nguyen; transcript shall be filed by 9/15/00; appellants' briefs, excerpts due by 10/25/00 for Khanh Phuong Nguyen; appellees' brief due 11/24/00 for USA; appellants' reply brief due by 12/8/00 for Khanh Phuong Nguyen. (RT required: yes) (Sentence imp 212 mos) [00-10353] (af) [00-10353]
	* * * *
12/7/00	Filed motion and deputy clerk order (Deputy Clerk: JLC) PROMO: The motion of appellant Phan in No 00-10406 to consolidate her appeal with appellant Nguyen's appeal in No. 00-10353 is granted. The opening briefs are now due 1/10/01; appellees' brief due 2/9/01; and the optional reply brief is due 14 days from service

DATE	PROCEEDINGS
	of the answering brief. Any subsequent motion shall contain a recital of defendant's bail status. (Motion recvd 12/1/00) [00-10353, 00-10406] (tm) [00-10353 00-10406]
	* * * *
1/26/01	Received Appellant Tuyet Mai Thi Phan in 00-10406's brief in 5 copies 25 pages (Informal: no); with 5 Exc of records in 1 vol; deficient (insufficient copies) notified counsel. Served on 1/24/01. respnse to brief deficiency notice due 2/14/01. (af) [00-10406]
1/30/01	Filed original and 15 copies Appellant Khanh Phuong Nguyen in 00-10353 opening brief (Informal: n) 19 pages and five excerpts of record in 1 volumes; served on 1/22/01 [00-10353, 00-10406] (tm) [00-10353 00-10406]
	* * * *
3/1/01	Filed original and 15 copies appellee USA's 30 pages brief, 1 Exc. vols: ; served on 2/23/01 [00-10353, 00-10406] (tm) [00-10353 00-10406]
3/1/01	Filed pre-sentencing report UNDER SEAL. [00-10353, 00-10406] (tm) [00-10353 00-10406]
3/9/01	Filed original and 15 copies Khanh Phuong Nguyen in 00-10353 reply brief, (Informal: n) 5 pages; served on 3/6/01 [00-10353] (tm) [00-10353]
3/13/01	Filed original and 15 copies Appellant Tuyet Mai Thi Phan in 00-10406's reply brief (Informal: n) 5 pages; minor defcy: proof of service missing. Notified counsel. [00-10353, 00-10406] (tm) [00-10353 00-10406]

DATE	PROCEEDINGS
	* * * *
11/28/01	CALENDARED: GUAM Tuesday Feb 12 2002 10:00 am [00-10353, 00-10406] (aw) [00-10353 00-10406]
	* * * *
2/12/02	ARGUED AND SUBMITTED TO Mary M. SCHROEDER, Alfred T. GOODWIN, Alex R. Munson [00-10353] (aw) [00-10353]
3/25/02	FILED OPINION: AFFIRMED (Terminated on the Merits after Oral Hearing; Affirmed; Written, Signed, Published. Mary M. SCHROEDER; Alfred T. GOODWIN, author; Alex R. Munson.) FILED AND ENTERED JUDGMENT. [00-10353, 00-10406] (tm) [00-10353 00-10406]
	* * * *

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CALENDAR FOR HAGATNA, GUAM

February 1, 2002

February 12, 2002

Case No.	Title of Cause	Nature	Origin

Tue. 12 10:00 a.m. 4th floor Courtroom
Before: SCHROEDER, GOODWIN, CJJ; MUNSON [No. Mar.] DJ

00-10353) United States v. Nguyen Criminal Guam
00-10406) United States v. Phan

Judge Sitting by Designation:

Hon. Alex R. Munson, Chief District Judge for District of No. Mariana Islands

Location of Hearing:

United States Courthouse
520 West Soledad Avenue, 4th Floor
Hagatna, GU 96910

www.ca9.uscourts.gov

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CALENDAR FOR SAIPAN,
NORTHERN MARIANA ISLANDS

February 1, 2002

February 14, 2002

Case No.	Title of Cause	Nature	Origin
Thu. 14	1:30p.m. 1st Floor Courtroom		
	Before: SCHROEDER, GOODWIN, CJJ; UNPINGCO [Guam], DJ		
00-16594	Oden v. Northern Marianas Colleges	Pacific	N.Mar
00-17437	San Nicolas v. Dept. of Public Safety	Federal	N.Mar
01-15119	Ayuyu v. Tagabuel	Rights	N.Mar
01-15405	Dateline Exports, Inc. v. Basic Construction Inc.	Interlocutory	N.Mar

Judge Sitting By Designation:

Hon. John S. Unpingco, Chief District Judge for District of Guam

Location of Hearing:

United States District Court
Horiguchi Building
Beach Road
Saipan, MP 96950

www.ca9.uscourts.gov

UNITED STATES COURTS FOR THE NINTH CIRCUIT
[SEAL] Public Information Office

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NEWS RELEASE

Contact: David Madden, (415) 556-6177
February 7, 2002

COURT OF APPEALS SCHEDULES HEARINGS IN GUAM, SAIPAN

SAN FRANCISCO—The United States Court of Appeals for the Ninth Circuit has scheduled special sittings next week in the U.S. Territory of Guam and the Commonwealth of the Northern Mariana Islands. The court last heard cases in Guam 19 years ago and has never before had a sitting in the Northern Mariana Islands.

Chief Judge Mary M. Schroeder and Senior Circuit Judge Alfred T. Goodwin will sit on an appellate panel that will hear cases in Hagatna, Guam, on Feb. 12, and Saipan, NMI, on Feb. 14. Joining them on the panel will be Chief District Judge John S. Unpingco of the U.S. District Court of Guam and Chief District Judge Alex R. Munson of the U.S. District Court of the Northern Mariana Islands. Judge Munson will hear cases in Guam, while Judge Unpingco will hear cases in the Northern Mariana Islands.

"We are very happy that the Court of Appeals has chosen to visit us," Judge Unpingco said. "Their presence here means a lot to the people of the territory. We are part of the Ninth Circuit and the court's coming here really brings that point home."

Judge Unpingco said he looked forward to hosting the chief judge of the circuit.

"We're very proud of the work we do here and look forward to showing our operation to her," he said.

For Robert Torres, an attorney in Guam who serves as a Lawyer Representative to the Ninth Circuit Judicial Council, the visit confirms that the Ninth Circuit "really is a traveling circuit."

"This is a very exciting event for the legal community here," Torres said.

The district court for the Northern Mariana Islands was established in 1978. Judge Munson, who has served as chief district judge for the past 13 years, said he and the islands' 100 or so practicing attorneys look forward to the court's visit.

"I think the lawyers are very excited about the opportunity to see cases argued in appellate court. I think we're going to have a full house," Judge Munson said.

Judge Munson added that the visit will reduce costs for the litigants, who would otherwise have paid to send their attorneys to Honolulu or the mainland United States. "I think it realizes the intent of the Criminal Justice Reform Act to reduce litigation costs," he observed.

In Guam, the panel will hear oral arguments in a combined case, *United States v. Nguyen* and *United States v. Phan*, in which Khanh Phuong Nguyen and Tuget Mai Thi Phan appeal their jury trial convictions and sentences for conspiracy and importation of methamphetamine.

In NMI, the panel will hear oral arguments in four cases:

- *Oden v. Northern Marianas College*, in which Meredith Oden appeals the district court's summary judgment in favor of the Northern Marianas College, its Board of Regents and

College President Agnes McPhetres in Oden's action brought under Title IX, 20 U.S.C. § 1681 and 42 U.S.C. § 1983. Oden alleged that she was sexually harassed by her music instructor. A jury awarded Oden general and punitive damages against the music instructor.

- *San Nicolas v. Dept. of Public Safety*, in which Dolores M. San Nicolas appeals the district court's summary judgment dismissal of her action under the Equal Pay Act, 29 U.S.C. § 206 and Title VII, 42 U.S.C. § 2000e alleging that the Commonwealth of the Northern Mariana Islands Department of Public Safety committed wage discrimination on the basis of her female sex during her employment as a Police Captain.

- *Ayuyu v. Tagabuel*, in which Hillary Tagabuel, a police officer of the Northern Mariana Islands, appeals the district court's judgment, following a jury trial, in favor of Ramon Ayuyu in Ayuyu's 42 U.S.C. § 1983 action, seeking to recover for violation of his Sixth Amendment constitutional rights to counsel, arising when Tagabuel questioned Ayuyu and obtained a confession without informing Ayuyu of his right to counsel.

- *Dateline Exports, Inc. v. Basic Construction, Inc.*, a case arising under Northern Mariana Islands jurisdiction, in which Dateline Exports, Inc. appeals the district court's denial of its request for a preliminary injunction seeking to stay Basic Construction, Inc. from transferring its assets out of the United States. In an underlying contractual dispute, the parties entered into a court-approved settlement agreement in which Basic executed a $120,000 promissory note in favor of Dateline. Basic closed its business operation in Saipan, and began transferring its inventory assets out of the country. The district court concluded that Dateline failed to demonstrate irreparable harm, because Basic has met its payments under the Note and Dateline waived its objection to a 12/00 missed payment by accepting late payment.

Appellate panels from the Ninth Circuit Court of Appeals hold court one week a month in the cities of Seattle, San Francisco and Pasadena, and in Portland several times a year. Special sittings also are held in various locations around the circuit. The Ninth Circuit court calendar is available online at www.ca9.uscourts.gov.

# # #

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